

Return Date: No return date scheduled  
Hearing Date: 9/15/2021 9:45 AM - 9:45 AM  
Courtroom Number: 2508  
Location: District 1 Court  
Cook County, IL



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FILED  
5/17/2021 10:30 PM  
IRIS Y. MARTINEZ  
CIRCUIT CLERK  
COOK COUNTY, IL  
2021CH02405

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

**DANIELLE CERVANTES,**

**Plaintiff,**

**v.**

**CITY OF CHICAGO,**

**Defendant.**

**CASE NO. 2021CH02405**

13359218

**COMPLAINT**

Plaintiff, Danielle Cervantes, complains against the Defendant City of Chicago (“the City” or “the City of Chicago”) as follows:

**Introduction**

1. This complaint arises from the Defendant City of Chicago’s violations of the Illinois Human Rights Act (“IHRA”). The City of Chicago refused to hire Plaintiff because of her disability in violation of the IHRA’s prohibition against disability discrimination. 775 ILCS 5/2-102.

**Parties**

2. Plaintiff Danielle Cervantes is an Illinois citizen and a Chicago resident.
3. Defendant City of Chicago is an Illinois municipal corporation.

**Facts**

4. Ms. Cervantes is an experienced paramedic with a state of Illinois EMT-P license. She has worked for private ambulance companies, providing advanced life support patient care and transporting patients, and in a hospital emergency department for over nine years.



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5. In 2015, Ms. Cervantes applied to work as a City of Chicago paramedic. She completed all necessary application documents, and the City placed her name on the 2015 paramedic Eligibility List.

6. Ms. Cervantes has been diagnosed with moderate to severe hearing loss since birth, as a result of nerve damage occurring during birth. Her hearing loss is a determinable physical characteristic within the meaning of the IHRA.

7. Ms. Cervantes' hearing loss is unrelated to her ability to perform the duties of a paramedic with the City of Chicago Fire Department.

8. Ms. Cervantes' hearing loss is a physical impairment that substantially limits one or more of her major life activities.

9. Despite Ms. Cervantes' disability, she can perform all of the essential functions of the City of Chicago paramedic position.

10. In July 2019, the City invited Ms. Cervantes to further process for the Chicago Fire Department paramedic position. She reported for processing, submitted to drug screening and a thorough background check, and took and passed the City's pre-hire physical fitness test for paramedics (the Paramedic Physical Ability Test).

11. On September 5, 2019, the City made Ms. Cervantes an offer of employment as a Chicago Fire Department paramedic.

12. The City conditioned its job offer upon Ms. Cervantes "successfully completing, to the satisfaction of the Chicago Fire Department, the medical examination which is the next step in the hiring process."



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13. From September to October 2019, and ongoing, the City took adverse action against Ms. Cervantes by withdrawing her job offer for the paramedic position and denying her entry into the October 2019 paramedic academy due to her physical disability.

14. After receiving the City's job offer, Ms. Cervantes submitted to medical screening, as directed by the Chicago Fire Department. First, she went to medical screening at an outside vendor where multiple physical exams were administered. The exam included a hearing test, which she was directed to take without her hearing aids in.

15. After the medical screening, the City instructed Ms. Cervantes to see an audiologist to complete a hearing test with her hearing aids in.

16. On September 24, 2019, Ms. Cervantes visited an audiologist at North Suburban Hearing Service, Ltd. and took hearing tests, which were administered both with and without her hearing aids. At the end of the appointment, the audiologist wrote Ms. Cervantes a letter and provided her copies of the reports of the hearing tests.

17. On September 27, Ms. Cervantes took the letter and hearing test reports and met with the Chicago Fire Department's medical director, Dr. William Wong.

18. At the appointment, Dr. Wong scanned the audiologist's letter and results from the hearing tests she conducted. It appeared to Ms. Cervantes that Dr. Wong was either unable to interpret the results or uninterested in them. He skipped over the second page.

19. After scanning the letter, Dr. Wong told Ms. Cervantes that he was going to conduct a "whisper test." He did not explain why he wanted to conduct such a test or how it was relevant to the paramedic job. He asked Ms. Cervantes to stand with her back to him facing the wall and then he walked behind her some distance away. He instructed her to cover her right ear



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with her right hand. However, covering one ear while wearing her hearing aids causes loud feedback (whistling). Ms. Cervantes explained this to Dr. Wong, so he instructed her to remove the hearing aid in her right ear and cover it with her hand. He then started whispering, still standing behind her. He then repeated this “test” on the left ear. Ms. Cervantes could hear him whispering but could not make out what he was saying without her hearing aids in. She told him she could hear his voice whispering but not the words.

20. After this “whisper test,” Dr. Wong told Ms. Cervantes that he “needed” her to be able to hear at a decibel of 45. He did not explain how he came up with that number or how the “whisper test,” administered without hearing aids, could measure whether she was capable of safely and effectively performing the duties of a City of Chicago paramedic—which she would carry out wearing her hearing aids.

21. Dr. Wong did not identify any essential job function of a City of Chicago paramedic that Ms. Cervantes was unable to perform while wearing her hearing aids. He simply told her that he could not let her continue on in the hiring process.

22. Ms. Cervantes tried to explain to Dr. Wong that she worked as an emergency room technician, held a paramedic license, and that from 2003 to 2017, worked for multiple private ambulance companies. Dr. Wong told her that her experience did not matter because private ambulance companies only service nursing homes, which is untrue. Ms. Cervantes corrected him, explaining that the companies she worked for respond to emergency calls and provide advanced life support to critically ill patients while transporting them to the hospital. Dr. Wong did not seem to care about Ms. Cervantes’ demonstrated functional capacity.



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23. Dr. Wong asked Ms. Cervantes no questions about her hearing functioning, her work history as a paramedic, or whether her hearing impairment had created any difficulties in her many years of employment as a paramedic and emergency room technician. His decision to deny her medical clearance, resulting in the withdrawal of the City's job offer, was not based on any realistic, functional assessment of her ability to hear.

24. The City did not send Ms. Cervantes any document explaining or justifying the rescission of its job offer or identifying any essential job function of a paramedic that the City contends she is unable to perform due to her hearing impairment.

25. In October 2019, the City hired a class of paramedics. Although Ms. Cervantes had submitted to medical screening, as directed by the City, and complied with each follow-up directive including testing with an audiologist and meeting with Dr. Wong, she was not hired into the October 2019 paramedic academy class. Instead, the City denied Ms. Cervantes employment as a paramedic because of her documented disability.

26. There are countless hearing-impaired people employed as paramedics in Chicago and across the country who have demonstrated their capacity to safely and effectively perform all essential job functions of a paramedic. Ms. Cervantes knows multiple current and former Chicago Fire Department paramedics and firefighter/EMTs who are hearing impaired—all of whom have performed capably despite their hearing impairments.

27. As a result of the actions described above, Ms. Cervantes has been denied a desirable position as a paramedic with the Chicago Fire Department. She has lost substantial wages and benefits and has sustained other economic and non-economic damages including for emotional harm and suffering.



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### **Legal Standard**

28. Section 2-102 of the IHRA provides, in pertinent part:

It is a civil rights violation . . . [f]or any employer . . . to act with respect to recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure or terms, privileges or conditions of employment on the basis of unlawful discrimination.

775 ILCS 5/2-102(A). The IHRA defines unlawful discrimination to include discrimination based on disability. 775 ILCS 5/1-103(Q).

### **Exhaustion of Administrative Remedies**

29. The IHRA also contains the following provisions:

If the Director determines that there is no substantial evidence, the charge shall be dismissed by order of the Director[,] and the Director shall give the complainant notice of his or her right to seek review of the dismissal order before the Commission or commence a civil action in the appropriate circuit court . . . . If the complainant chooses to commence a civil action in a circuit court, he or she must do so within 90 days after receipt of the Director's notice.

775 ILCS 5/7A-102(D)(3).

30. On March 9, 2020, Ms. Cervantes filed a charge of discrimination with the Illinois Department of Human Rights alleging that the City of Chicago discriminated against her because of her disability. On January 7, 2021, the Illinois Department of Human Rights dismissed the charge of discrimination for lack of substantial evidence. On February 17, 2021, Ms. Cervantes received notice of her right to commence a civil action in circuit court and has filed this complaint within 90 days after her receipt of notice.

### **COUNT ONE**

#### **Illinois Human Rights Act – Disability Discrimination**

31. Plaintiff realleges paragraphs 1-30 as if fully set forth herein.



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32. The City of Chicago refused to hire Ms. Cervantes because of her physical disability thereby engaging in unlawful discrimination in violation of the IHRA.

33. The City's illegal conduct caused Ms. Cervantes to suffer lost wages and benefits of employment as well as emotional distress and lost career opportunities.

34 Ms. Cervantes asks the Court to enjoin the City's illegal conduct because, in the absence of an injunction, the City's illegal conduct is likely to recur, and Ms. Cervantes will again suffer irreparable injury. Additionally, she has no adequate remedy at law; and she has a substantial likelihood of success on the merits.

**WHEREFORE**, Ms. Cervantes prays that this Court grant her the following relief in excess of \$50,000:

- A. An injunction requiring the City to hire Ms. Cervantes as a paramedic, or in the alternative an award of front pay;
- B. An injunction prohibiting the City from discriminating against paramedic candidates with disabilities.
- B. An award of back pay;
- C. An award of damages compensating her for her lost benefits of employment;
- D. An award of damages compensating her for her emotional distress, humiliation, and lost career opportunities;
- E. Attorneys' fees and costs, including expert witness fees; and
- F. Other relief as is just and proper.

**JURY DEMAND**

Ms. Cervantes' complaint demands both equitable and non-equitable relief. Ms.



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Cervantes demands that a jury resolve all of her claims for non-equitable relief after this Court resolves her claims for equitable relief.

By: /s Marni Willenson  
One of the Attorneys for Plaintiff

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Attorney for Plaintiff

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MAY 26 2021

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DEPARTMENT OF LAW

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Defendant(s)

Address of Defendant(s)

Please serve as follows (check one): ☐ Certified Mail ☒ Sheriff Service ☐ Alias

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To each Defendant:

You have been named a defendant in the complaint in this case, a copy of which is hereto attached. You are summoned and required to file your appearance, in the office of the clerk of this court within 30 days after service of this summons, not counting the day of service. If you fail to do so, judgment by default may be entered against you for the relief asked in the complaint.

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☒ Atty. No.: 49568  
☐ Pro Se 99500

Name: Marni Willenson

Atty. for (if applicable):

Plaintiff Danielle Cervantes

Address: Willenson Law, LLC, 3420 W. Armitage Ave.

City: Chicago

State: IL Zip: 60647

Telephone: 312-508-6380

Primary Email: marni@willensonlaw.com

5/18/2021 8:56 AM IRIS Y. MARTINEZ  
 Witness date \_\_\_\_\_

Iris Y. Martinez, Clerk of Court



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☐ Date of Service: \_\_\_\_\_  
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**COUNTY DIVISION****Court date EMAIL:** CntyCourtDate@cookcountycourt.com

Gen. Info: (312) 603-5710

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Gen. Info: (312) 603-6441

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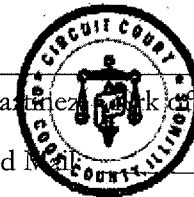
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